

Exhibit 23

From: Muehlberger, James P. (SHB)
Sent: Wednesday, February 08, 2006 10:09 AM
To: Mizell, Nick P. (SHB)
Subject: FW: Part B Carrier Subpoenas to National Heritage

-----Original Message-----

From: Starr, Gary [mailto:GStarr@Goodwin.com]
Sent: Wednesday, February 08, 2006 10:06 AM
To: Muehlberger, James P. (SHB)
Subject: RE: Part B Carrier Subpoenas to National Heritage

Jim,

I am meeting by phone with client tomorrow and will get back to you right after that.

Gary

-----Original Message-----

From: Muehlberger, James P. (SHB) [mailto:JMUEHLBERGER@shb.com]
Sent: Friday, February 03, 2006 12:10 PM
To: Starr, Gary
Cc: Aimee E. Bierman (E-mail); Michael DeMarco (E-mail); Mizell, Nick P. (SHB)
Subject: RE: Part B Carrier Subpoenas to National Heritage

Gary,

Please let us know when you're available Monday to discuss NHIC's designation of an appropriate corporate designee and production of documents and, if our discussion requires DOJ participation for some reason, let's invite them to participate.

We have been communicating with you for several weeks now, and yet NHIC has failed to produce a single document, tell us the nature of any purported concerns with Judge Saris' June 8, 2004, Protective Order Governing Confidential Health Information ("Order"), or designate a single 30b6 designee. As I mentioned on our last call, scores of third parties, including BCBS of Massachusetts ("BCBS") (whose former documents NHIC now possesses as a result of NHIC's purchase of BCBS' Part B business and which we seek), have produced documents in this litigation pursuant to Judge Saris' Order.

Could you please send us a copy of all organizational charts reflecting those NHIC employees with Part B responsibilities during the relevant time period? I presume that the org charts are something you have already obtained and reviewed as part of NHIC's obligations to designate an appropriate corporate designee(s).

Please be assured that we wish to resolve this matter voluntarily. We do not wish to, and will not, however, draw out the process of determining whether a motion to compel is necessary. If a motion is necessary, we intend to file it sooner rather than later.

We look forward to hearing from you.

-----Original Message-----

From: Starr, Gary [mailto:GStarr@Goodwin.com]

To: Muehlberger, James P. (SHB)

Cc: Aimee E. Bierman (E-mail); Michael DeMarco (E-mail); Mizell, Nick P. (SHB)

Subject: RE: Part B Carrier Subpoenas to National Heritage

Jim,

I'm on my way out the door for a few days visiting my parents, but I wanted to update you on where we are. We are gathering answers to the four questions you asked. While Nick sent me a list of former BCBS employees, most are gone. One or the two remaining did not know about the surveys. The other person has been out of town.

With respect to the 121 boxes, we believe there are HIPPA obligations that are not protected by the protective order, but want to discuss with the Justice Department lawyer.

Finally, any discussion with a business person would have to be with the knowledge, consent and participation of Justice.

I will be back on Monday, hopefully we will have more information by the beginning of the week.

Gary

Gary S. Starr

Shipman & Goodwin LLP

One Constitution Plaza

Hartford, CT 06103-1919

Tel: (860) 251-5501

Fax: (860) 251-5216

E-mail: gstarr@goodwin.com

www.shipmangoodwin.com

THE INFORMATION IN THIS TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL AND INTENDED ONLY FOR THE RECIPIENT(S) LISTED ABOVE. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY E-MAIL AND DELETE THE ORIGINAL MESSAGE. THE TEXT OF THIS E-MAIL IS SIMILAR TO ORDINARY TELEPHONE OR FACE-TO-FACE CONVERSATIONS AND DOES NOT NECESSARILY REFLECT THE LEVEL OF FACTUAL OR LEGAL INQUIRY OR ANALYSIS WHICH WOULD BE APPLIED IN THE CASE OF A FORMAL LEGAL OPINION.

-----Original Message-----

From: Muehlberger, James P. (SHB) [mailto:JMUEHLBERGER@shb.com]

Sent: Wednesday, February 01, 2006 12:40 PM

To: Starr, Gary

Cc: Aimee E. Bierman (E-mail); Michael DeMarco (E-mail); Mizell, Nick P. (SHB)

Subject: RE: Part B Carrier Subpoenas to National Heritage

Gary,

I also wanted to remind you of our request during Monday's call that, as part

Case 1:01-cv-12257-PBS Document 2104-24 Filed 02/28/06 Page 4 of 5
of the meet-and-confer process, NHIC make a businessperson available for a telephone conference with all of us to discuss the 30b6 issues, so that we may move forward. Could you please let us know by Friday if you object to such an approach? If not, I'd like to set up the call for sometime next week.

Thank you,

Jim

-----Original Message-----

From: Mizell, Nick P. (SHB)
Sent: Monday, January 30, 2006 6:10 PM
To: 'GStarr@Goodwin.com'
Cc: Muehlberger, James P. (SHB); Aimee E. Bierman (E-mail); Michael DeMarco (E-mail)
Subject: FW: Part B Carrier Subpoenas to National Heritage

Gary,

Following up on our conversation this afternoon, the attached chart (which we previously sent with the 1/19 message below) is a list BCBSMA gave us of the Medicare Part B employees that were transferred to NHIC. While it is NHIC's duty to identify, prepare and designate the appropriate witnesses for the areas of inquiry we outlined below and discussed today, we refer you to the following areas in the chart that may be good places to start:

On pages 6, 8 & 9, Yvonne Kimbrel, Colleen Murphy and Elizabeth Reinhardt are identified as analysts working in the area of Medicare B Pricing ("cost center 9132"). Ms. Reinhardt appears to have been the most senior of the three. It's not clear from the chart who the business, unit or team leader(s) would have been for this area, but the chart does identify several individuals working in a supervisory capacity.

Supervisory position titles that appear potentially relevant include: Medicare B Claims Management (Andrew Conn - Manager II / Business Unit Leader) (p.2); Medicare Audit and Reimbursement (Stephen Macie - Manager II / Unit Leader (p. 7) & William Wheeler - Manager II / Business Unit Leader (p.11)); or Medicare B Process Control (Patricia Gardner - Supervisor III / Team Leader) (p.4).

Please let us know by Friday whether and why the June 9, 2004 Protective Order Governing Confidential Health Information does not satisfy potential concerns about producing records with personally identifiable information. Assuming the order satisfies these concerns, Aimee Bierman will work with you to arrange for an initial review next week of the 121 "Medicare B Pricing" boxes.

And, please let us know what your technical staff reports about the requested information concerning the electronically stored claims data, which I recall you expected to hear within the next 10 days.

Thanks for helping us with these questions. - Nick.

-----Original Message-----

From: Mizell, Nick P. (SHB)
Sent: Thursday, January 19, 2006 11:04 AM
To: 'GStarr@Goodwin.com'
Cc: Muehlberger, James P. (SHB); 'abierman@klng.com'; 'mdemarco@klng.com'
Subject: RE: Part B Carrier Subpoenas to National Heritage

Gary,

If it works well for you, we'd like to call you at 11am eastern on Friday the 20th. In the meantime, it would likely be helpful for us to preview the matters we would like to discuss with you.

Attached are letters we received from Blue Cross Blue Shield of Massachusetts memorializing the transfer of its Part B carrier records to NHIC, as well as lists of Part B carrier employees that BCBSMA reportedly transferred to NHIC.

Sifting through these docs, it appears that BCBSMA's Part B carrier records were organized into "cost centers" and that each of these were transferred to corresponding "Responsibility Centers" for NHIC. In particular, it appears that BCBSMA's "Medicare B Pricing" records were identified as "cost center 9132" and that these records were transferred to NHIC. We're interested in minimizing the discovery burden on all of us and, for now, would like to receive copies of the "9132" records, as well as the records created or maintained by NHIC in any corresponding responsibility center concerning Medicare Part B Pricing.

For the electronic claims data reflecting submitted charges and reimbursement payments that NHIC received from BCBSMA and that which NHIC has generated or maintained in its role as the Part B carrier for Massachusetts, we would like to get a sense of what the electronic data contains, where it is contained, how much there is, and what is needed to use it. To do so, we request that NHIC provide:

1. The file names, file sizes, media on which they are preserved, the application used to access the files, and the operating system used to run each named application.
2. The number of cartridges/tapes used to store these files.
3. The data layouts, data dictionaries, and all field codes for all files used to adjudicate the Massachusetts Part B reimbursement transactions.

And, while reserving our right to question designees concerning all of the areas of inquiry set forth in our 30(b)(6) notice, in an effort to reach a mutually agreeable scope of examination concerning the Part B-carrier issues, we request for now that NHIC identify designees to testify as to:

- (1) whether it is possible to determine from the Part B records maintained by NHIC if the submitted charges for part B covered drugs were based upon AWP and the frequency by which the submitted charges from and the reimbursement payments to health care providers have deviated from the statutory AWP ceiling for Part B covered drugs since 1991, and
- (2) any surveys or other information prepared, gathered or received by BCBSMA concerning physician acquisition costs for the subject drugs.

Prior to deposing these designees, we would also like to receive copies of any records responsive to these areas of inquiry.

We look forward to discussing these matters with you on Friday.

Thank you, Nick.

"MMS <shb.com>" made the following annotations on 02/01/06, 11:39:41

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if